IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 19333 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

GAIL (INDIA) LIMITED AND ANOTHER
Versus
THE DEPUTY COLLECTOR - STAMPS AND ANOTHER

==========

Appearance :
MR KARTIK THAKER for M/S TRIVEDI & GUPTA for Petitioners.
MS MD MEHTA, AGP for Respondents.

==========

CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 10/08/2007

ORAL JUDGMENT

1. Rule. Learned AGP waives service for the respondents.

2. Invoking Article 226 of the Constitution, the petitioner company has called into question order dated 3-8-2006 of the Collector, Stamp Duty, Patan, whereby in exercise of powers conferred by the provisions of Section 39 (1) (b) of the Bombay Stamp Act, 1958 (for short “the

Act"), a sum of Rs.38,770/- by way of deficit stamp duty and penalty is determined to be due. It was pointed out by learned AGP, appearing for the respondents, that in view of the disputes and contentions raised by the petitioner, the matter was required to be referred to the Chief Controlling Revenue Authority under the provisions of Section 53 of the Act, who shall consider the case and decide the same in accordance with law, if an appropriate application were made therefor by the petitioner. It was clarified by her that if such application with requisite amount of deposit is made within a period of one month, the issue of limitation will not be raised by the Authority, in view of later communication of the order and the remedy pursued by the petitioner in this Court.

3. Responding to above fair statement of learned AGP, learned counsel for the petitioner submitted that the petitioner shall make appropriate application and deposit requisite amount in accordance with the provisions of Section 53 of the Act on or before 10th September 2007 and also make appropriate representation, if an opportunity were afforded to the petitioner.

4. Therefore, recording above consensus, the petition is disposed with the direction that the petitioner shall make an appropriate application on or before 10th September 2007 and deposit the requisite amount, on the basis of which the Collector concerned shall draw up a statement of the case and refer it to the Chief Controlling Revenue Authority, which shall consider and decide the same on merits as expeditiously as possible, after affording to the petitioner an opportunity of being heard. Rule is made absolute accordingly with no order as to costs.

(D.H.Waghela, J.)

/malek